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FILED

JUN 23 2014

**Phil Lombardi, Clerk
U.S. DISTRICT COURT**

Terrad Huey #276869
Name, Prisoner ID #
SSN: [REDACTED]
Lawton Correctional Facility
8607 S.E. Flowermound Rd
Lawton, OK 73501
Address

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

Terrad Dion Huey Petitioner
(Full Name)

Case No. 14-cv-344-TCK-PJC
(To be supplied
by the Clerk)

v.

Warden Rios, Respondent
(Name of Warden, Superintendent,
Jailor or authorized person having
custody of petitioner)

**PETITION FOR A WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. §2254 BY A
PERSON IN STATE CUSTODY**

NOTE: If petitioner is attacking a judgment which imposed a sentence to be served in the **future**, petitioner must fill in the name of the state where the judgment of conviction was entered. If the petitioner has a sentence to be served in the **future** under a federal judgment which he wishes to attack, he should file a motion under 28 U.S.C. §2255, in the federal court which entered the judgment.

CONVICTION UNDER ATTACK

- 1) Name and location of the court which entered the judgment of conviction under attack Oklahoma, Tulsa County Court
- 2) Date judgment of conviction was entered _____
- 3) Case number CF-2011-1026
- 4) Length and terms of sentence Life w/p and Five years

☒ Mail ☐ No Cert Svc ☐ No Orig Sign
☐ C/J ☐ C/MJ ☐ C/Re Page 1 ☐ No Env
☐ No Cpy's ☒ No Env/Cpy's ☐ O/J ☐ OAAJ

5) Are you presently serving a sentence imposed for a conviction other than the conviction under attack in this motion? Yes ☒ No ☐

6) Nature of the offense involved (all counts) Assault & Battery 2
Counts on a officer and Domestic Violence

7) What was your plea? (check one)

a) Not Guilty ☐ b) Guilty ☒ c) Nolo Contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: _____

8) If you entered a plea of guilty pursuant to a plea bargain, state the terms and conditions of the agreement: _____

9) Kind of trial (check one)

a) Jury Trial ☒ b) Judge without a Jury ☐

10) Did you testify at trial (if any)? Yes ☐ No ☒

Direct Appeal

11) Did you appeal the judgment of conviction? Yes ☒ No ☐

12) If you did appeal, state the name and location of the court where the appeal was filed, the result, the case number and the date of the court's decision (or attach a copy of the court's opinion or order) Tulsa County Court house.

Denial CF-2011-1026

13) If you did not appeal, explain briefly why you did not _____

a) Did you seek permission to file a late appeal? Yes ☐ No ☐.

Post-conviction Proceedings

14) Other than a Direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes ☐ No ☒

15) If your answer to 14 was "Yes", give the following information:

a) First petition, application or motion.

1) Name of court _____

2) Nature of proceeding _____

3) Grounds raised:

4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☒

5) Result _____

6) Date of result _____

7) Did you appeal the result to the highest state court having jurisdiction? Yes ☐ No ☐. If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order)

8) If you did not appeal, briefly explain why you did not _____

b) As to any second petition, application or motion.

1) Name of court _____

2) Nature of proceeding _____

3) Grounds raised:

4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☒

5) Result _____

6) Date of result _____

7) Did you appeal the result to the highest state court having jurisdiction? Yes ☐ No ☐. If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order)

8) If you did not appeal, briefly explain why you did not _____

c) As to any third petition, application or motion.

1) Name of court _____

2) Nature of proceeding _____

3) Grounds raised:

4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☒

5) Result _____

6) Date of result _____

7) Did you appeal the result to the highest state court having jurisdiction? Yes ☐ No ☐. If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order)

8) If you did not appeal, briefly explain why you did not _____

- 16) State **concisely** every ground on which you claim that you are being unlawfully held. Summarize **briefly** the **facts** supporting each ground. If necessary, you may attach up to two extra pages stating additional grounds or supporting facts. You should raise in this petition all available grounds for relief which relate to the conviction under attack.

CAUTION

Before proceeding in a federal court, you are required to exhaust the remedies available to you in the state courts as to each ground on which you request action by the federal court.

A)(1) **Ground One:** Ineffectiveness of Counsel.

(2) Supporting facts: Failed to put witness on the stand. Did not have Court's to run D.N.A from crime scene. more than one suspect named and not questioned. Background of officer's withheld.

(3) Statement of Exhaustion of State Remedies as to Ground One: _____

Direct Appeal

(a) If you appealed from the judgment of conviction did you raise this issue? Yes ☐ No ☐.

(b) If you did not raise this issue in your Direct appeal, explain briefly why you did not I ask counsel to but never took place in trial

Post Conviction Proceedings

(c) Did you raise this issue by means of a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☐.

(d) If your answer to (c) is "Yes", state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if known), the result and the date of the court's decision

(e) Did you receive an evidentiary hearing on your motion or petition? Yes ☐ No ☐.

(f) Did you appeal from the denial of your motion or petition? Yes ☐ No ☐.

(g) If your answer to (f) is "Yes", state whether this issue was raised in the appeal, Yes ☐ No ☐, and state the name and location of the court where the appeal was filed, the case number and the date of the court's decision (or attach a copy of the court's opinion or order) _____

(h) If your answer to questions (e), (f) or (g) is "No", briefly explain _____

Other Remedies

(I) Describe all other procedures (such as habeas corpus in the state supreme court, administrative remedies, etc.) you have used to exhaust your state remedies as to the issue _____

B)(1) **Ground Two:** _____

(2) Supporting facts : _____

(3) Statement of Exhaustion of State Remedies as to Ground Two: _____

Direct Appeal

(a) If you appealed from the judgment of conviction did you raise this issue? Yes ☐ No ☐.

(b) If you did not raise this issue in your Direct appeal, explain briefly why you did not _____

Post conviction Proceedings

c) Did you raise this issue by means of a post-conviction motion or

petition for habeas corpus in a state trial court? Yes ☐ No ☐.

(d) If your answer to (c) is "Yes", state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if known), the result and the date of the court's decision

(e) Did you receive an evidentiary hearing on your motion or petition?
Yes ☐ No ☐.

(f) Did you appeal from the denial of your motion or petition?
Yes ☐ No ☐.

(g) If your answer to (f) is "Yes", state whether this issue was raised in the appeal, Yes ☐ No ☐, and state the name and location of the court where the appeal was filed, the case number and the date of the court's decision (or attach a copy of the court's opinion or order)

(h) If your answer to questions (e), (f) or (g) is "No", briefly explain

Other Remedies

(I) Describe all other procedures (such as habeas corpus in the state supreme court, administrative remedies, etc.) you have used to exhaust your state remedies as to the issue _____

C)(1) **Ground Three:** _____

(2) Supporting facts : _____

(3) Statement of Exhaustion of State Remedies as to Ground Three: _____

Direct Appeal

(a) If you appealed from the judgment of conviction did you raise this issue? Yes ☐ No ☐.

(b) If you did not raise this issue in your Direct appeal, explain briefly why you did not _____

Post-Conviction Proceedings

(c) Did you raise this issue by means of a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☐.

(d) If your answer to (c) is "Yes", state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if known), the result and the date of the court's decision

(e) Did you receive an evidentiary hearing on your motion or petition? Yes ☐ No ☐.

(f) Did you appeal from the denial of our motion or petition? Yes ☐ No ☐.

(g) If your answer to (f) is "Yes", state whether this issue was raised in the appeal, Yes ☐ No ☐, and state the name and location of the court where the appeal was filed, the case number and the date of the court's decision (or attach a copy of the court's opinion or order)

(h) If your answer to questions (e), (f) or (g) is "No", briefly explain

Other Remedies

(i) Describe all other procedures (such as habeas corpus in the state supreme court, administrative remedies, etc.) you have used to exhaust your state remedies as to the issue _____

- _____
- _____
- 17) Have all grounds for relief raised in this petition been presented to the highest state court having jurisdiction? Yes ☐ No ☐.
- 18) If you have answered "No" to question 17, state which grounds have not been so presented and briefly give your reason(s) for not presenting them _____
- _____
- 19) If any of the grounds listed in this petition, were not previously presented in any other court, state or federal, state **briefly** what grounds were not so presented, and give your reasons for not presenting them _____
- _____
- 20) Have you previously filed any type of petition, application or motion in a federal court regarding the conviction under attack? Yes ☐ No ☐ If "Yes", state the location of the court, the type of proceeding, the issues raised, the result and the date of the court's decision for each petition, application or motion filed _____
- _____
- 21) Do you have any petition, application, motion or appeal now pending in any court, either state or federal, regarding the conviction under attack? Yes ☐ No ☐.
- 22) Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:
- (a) At preliminary hearing _____
- _____
- (b) At arraignment and plea _____
- _____
- c) At trial _____
- _____
- (d) At sentencing _____
- _____
- (e) On appeal _____
- _____
- (f) In any post-conviction proceeding _____
- _____

(g) On appeal from any adverse ruling in a post-conviction proceeding

23) Were you sentenced on more than one count of an indictment or on more than one indictment, in the same court and at the same time? Yes ☐ No ☐.

24) Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack ? Yes ☐ No ☐.

(a) If so, give name and location of court which imposed sentence to be served in the future _____

(b) And give date and length of service to be served in the future _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future? Yes ☐ No ☐.

SECOND OR SUCCESSIVE APPLICATIONS

This court is required to dismiss any claim presented in a second or successive petition that the federal court of appeals has authorized to be filed unless the applicant shows that each claim satisfies the requirements of 28 U.S.C. §2244, as amended by Title I of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No 104-132, §106, 110 Stat. 1214 (April 24, 1996).

25) If you are raising a claim which you have not presented in prior application have you obtained an order from the United States Court of Appeals for the Tenth Circuit authorizing this district court to consider the application? Yes ☐ No ☐. (Please attach a copy of the order)

Wherefore, petitioner prays that the court grant him such relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

Original Signature of Petitioner

(Attorney's full address and
telephone number)

NOTE: DECLARATION NEXT PAGE

TRACISTULSA REGIONAL AUTOMATED CRIMINAL INFORMATION SYSTEM
STANDARDIZED REPORTING FORMAT TUL-573F**TULSA POLICE DEPARTMENT**
WITNESS STATEMENT

PAGE OF

VICTIM NAME	Johnny Lee Dean Jr.		REPORTED PREPARED	MO	DATE	YR	DAY	TIME
				3	13	11	SUN	2006
WITNESS NAME	Regina G. Gillespie (Mom)							
LOCATION OF INCIDENT	5142 N ROCKFORD AVE							
HOME ADDRESS	1922 E 50th St. No. 7413D			HOME PHONE	425-1957		WORK PHONE	430-8300

DESCRIPTION OF EVENTS BY WITNESS

My son Johnny came home about 7:00 & said
 "momma 2 guys just tried to rob me and take
 my wallet. Ask who & he didn't say, but he
 looked @ my neighbor Vert & said man it's the
 same two guys. I said son you are suppose
 @ the birthday party over Ebony's. Why don't
 you just go on back over Ebony's. He said
 "I'm waiting on some body & then I'm leaving.
 But I'm tired of them messing w/ me. He &
 them stepped out & came back right back
 and pull a big gun out and started pulling
 shells out & put them in the gun and left.
 It may have been about 7:15-7:30.

Regina G. Gillespie

<input type="checkbox"/> THE STATEMENT WAS DICTATED TO THE OFFICER AT MY REQUEST				SIGNATURE				INCIDENT NUMBER 2011-013798
INTERVIEWING OFFICER	ID NUM	DIV	LOCATION	DATE	TIME			
B. VALKANAS	2264	GID	5200 N ROCKFORD AVE	3-13-11	2300			

R.M. 8-A-116

Serred Huey #276869.
Lawton Correctional Facility
8607 S.E. Flowermound Rd
Lawton, OKLA 73501



Postmarked 6/19/14

RECEIVED

JUN 23 2014

Phil Lombardi, Clerk
U.S. DISTRICT COURT

United States District Clerk's Office

Northern District of Oklahoma

333 W. 4th St RM 411

Tulsa, OK 74103

6-19-14